DAMAGES—EVIDENCE—DIMINUTION OF EARNING CAPACITY.—The plaintiff, a driver of a coal wagon, who had previously been employed for fifteen years as a railroad brakeman, was injured through the negligence of the defendant. He had on file an application with the railroad to re-enter such employment, being capable at the time of fulfilling the duties of a brakeman. Evidence was given as to his earning capacity as a railroad brakeman. *Held,* that such evidence is admissible. *Millette* v. *Detroit United Ry.* (Mich.), 153 N. W. 10.

Where the plaintiff was engaged in work other than his regular occupation when injured, the general rule is that evidence of his average earnings while in his ordinary employment will be admitted, nevertheless, in ascertaining the proper measure of damages. *Evansville Furniture Co.* v. *Freeman* (Ind.), 105 N. E. 258; *Grimmelman* v. *Union Pacific Ry. Co.*, 101 Iowa 74, 70 N. W. 90. See also *Birmingham Ry., L. & P. Co.* v. *Simpson,* 177 Ala. 475, 59 So. 213. On principle, this is perfectly sound. For the reason that the injured's average earnings within a reasonable period prior to his injury, are as reliable data from which to estimate his probable future earnings as can be found. See *Cent. of Ga. Ry. Co.* v. *Perkerson,* 112 Ga. 923, 38 S. E. 365, 53 L. R. A. 210.

The general rule however is well hedged with limitations and restrictions. It is not to be understood from this rule that proof of mere speculative earning power is allowed. Only evidence of demonstrated skill and capacity is admissible. *Atlanta & W. P. Ry. Co.* v. *Newton,* 85 Ga. 883, 11 S. E. 776; *Hobel* v. *Mahoning & Shenango Ry. & L. Co.*, 229 Pa. 507, 79 Atl. 119. The facts in the case must not be such as to show that the plaintiff had no intention of reentering that employment, his earning capacity in which he desires to lay before the jury. *Helmstetter* v. *Pittsburg Ry. Co.*, 243 Pa. 422, 90 Atl. 203. Likewise, it must appear that the plaintiff was, at the time of the injury, both qualified and able to discharge the duties of such employment. *Knox* v. *American Rolling Mill,* 236 Ill. 437, 86 N. E. 90. And that the period of employment was not so remote that circumstances should have entirely changed. *Hobel* v. *Mahoning & Shenango Valley Ry. & L. Co., supra.*

DEBT—ACTIONS BY GOVERNMENT—LIMITATION OF ACTIONS—PRESUMPTION OF PAYMENT FROM LAPSE OF TIME.—The United States brought suit against defendant corporation for unpaid dividends declared twenty-eight years before on stock owned by the government in defendant corporation. *Held,* the defendant is not liable. *Chesapeake & Delaware Canal Co.* v. *United States,* 223 Fed. 926.

In accordance with the maxim ***nullum tempus occurrit regi,*** state statutes of limitation do not constitute a bar to actions by the United States. *United States* v. *Thompson,* 98 U. S. 486. It has been held, however, that the United States is subject to the statute of limitations when prosecuting a claim not strictly governmental. *United States* v. *McElroy,* 25 Fed. 804. It would seem that there was, in this case, a failure to recognize the distinction between substantive rights, of which the government on coming into the courts shares equally with the individual, and the enforcement of such rights. Thus, a state, as stockholder of a corporation, assumes the status of other stockholders, entitled to the